

JOHN SCOTT
LORD ELDON, 1751–1838

THE DUTY OF LOYALTY

R. A. MELIKAN



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A MAN OF LAWS

John Scott was born on 4 June 1751 in Newcastle-upon-Tyne, the youngest of the six surviving children of William Scott and his second wife, Jane. William Scott enjoyed a prosperous career as a 'hostman' or coal factor, and at his death in 1776 was the owner of several coal barges and a public house. John began his education at the Newcastle Free Grammar school and then proceeded to Oxford University. He had been intended for the family business, but his brother William,¹ then a tutor at University College, intervened on his behalf with their father.² Accordingly, John matriculated at Oxford University and entered University College on 15 May 1766, shortly before his fifteenth birthday. The following year he was awarded a college fellowship. He received his Bachelor of Arts degree in February 1770 and his Master of Arts degree three years later. While not known as a particularly brilliant scholar at Oxford, he did win the Chancellor's prize in English in 1771 for an essay entitled, 'On the Advantages and Disadvantages of Travel in Foreign Countries'.

Scott had almost completed his MA and was intending to pursue a career in the Church when he took the precipitous step of eloping with Elizabeth Surtees on 18 November 1772. Whatever its attractions for the young couple, the marriage was not immediately popular with either family. In particular Aubone Surtees, a

¹ William Scott (1745–1836) had a similarly distinguished career. An MP from 1790–1820, he also had important legal and judicial appointments. He held the posts of Advocate General (1782–8) and King's Advocate (1788–98), and served as Register of the Court of Faculties (1783–90), judge of the Consistory Court of London (1788–1820), and judge of the High Court of Admiralty (1798–1828). He is most famous for his admiralty decisions, and he is regarded, *inter alia*, as having established the modern law of prize.

² H. Twiss, *The public and private life of Lord Chancellor Eldon*, 2nd edn, 3 vols. (London, 1844), I:48.

wealthy Newcastle banker, had greater aspirations for his daughter than that she become the wife of a curate.³ Both fathers did, however, establish trusts for their children in the amount of £3,000, which provided them with a degree of immediate financial security.⁴ Unfortunately, Scott's long-term prospects were rendered more precarious by marriage, because it disqualified him for his fellowship. Although entitled to a one-year grace period, during which he could accept any college living that fell vacant, he lacked any other connection to whom he might turn if without a place at the end of that time. With the knowledge of that possibility Scott decided, in January 1773, to enrol as a student at the Middle Temple and study for the bar.

His first task, once he had settled on a legal career, was to qualify himself for it. Inspired by his new responsibilities, Scott devoted himself to his studies. In August 1773 he described himself to his cousin, Henry Reay, as one 'whose every hour is dedicated to learned dullness, who plods with haggard brow o'er the black-lettered page from morning to evening, and who finds his temper grow crabbed as he finds points more knotty'.⁵ The following year he secured employment as deputy to Sir Robert Chambers, then Vinerian Professor of Common Law. Chambers had just been appointed Chief Justice of Bengal, and Scott was hired to deliver his lectures. For this he received £60, and was entitled to take up Chambers' residence at New Inn Hall. Financial worries returned in 1775, however, when Scott moved his wife and infant son to London.⁶ It was common for law students to undertake pupillages of one to three years in order to learn such practical skills as conveying property, legal draughtsmanship, and the process of litigation. The price commanded by eminent practitioners could approach £100 guineas

³ *Ibid.*, I:78; 'John Scott, Earl of Eldon', *Oxford University Record* (1951–52), 16–25, 19.

⁴ William Scott senior established a trust in favour of his son and daughter-in-law in the amount of £2,000. Aubone Surtees further agreed to give them £1,000. Abstract of marriage settlement of John Scott and Elizabeth Surtees, 7 January 1773, Encombe (Scott papers). The principal of the Scott trust appears to have been paid out on 17 August 1781. At that time Aubone Surtees settled a further £1,000 on John and Elizabeth Scott, although he had not yet paid out the original £1,000. He had paid interest at 5 per cent.

⁵ John Scott to Henry Reay, 20 August 1773, NCL (Scott papers). See also *The Legal Observer* 1 (1831), 193.

⁶ On John Scott (1774–1805), see chapter 8.

per year.⁷ Scott was fortunate in making the acquaintance of Matthew Duane, a well-respected conveyancer. Duane took on the impoverished Scott for six months without charge, an act of kindness which the beneficiary described to his brother Henry as having ‘taken a great load of uneasiness off my mind, as in fact our profession is so exceedingly expensive, that I almost sink under it’.⁸

Scott was called to the bar in February 1776. His legal career during the next ten years consisted of circuit, parliamentary, and London practice. His progress in the first was not immediate. He attended the Northern Circuit, which included Northumberland, Cumberland, Westmoreland, and Lancashire. In a letter to Henry, William Scott wrote in October 1776: ‘My brother Jack seems highly pleased with his circuit success. I hope it is only the beginning of future triumphs. All appearances speak strongly in his favour.’⁹ On the other hand, Scott would later claim to have attended the Cumberland assizes for seven years before getting a brief, while the local newspapers rarely mention him in their accounts of the assizes – and then not prior to 1783.¹⁰ Scott’s fee books only contain records of his assize earnings for the period 1785–88, the last four years he attended the circuit.¹¹ By that time, however, he had become one of its leaders. The fees are set out in Table 1.1.

In the spring of 1777 Scott became embroiled in Newcastle politics, when he represented Andrew Robinson Bowes upon the latter’s petition contesting his defeat in the recent parliamentary

⁷ John Jeaffreson, *A book about lawyers*, 2 vols. (New York, 1867), II:195, 197.

⁸ J. Scott to Henry Scott, 5 December 1775, Twiss, *The public and private life*, I:113.

⁹ William Scott to H. Scott, 22 October 1766, W. E. Surtees, *A sketch of the lives of Lords Stowell and Eldon* (London, 1846), 32.

¹⁰ Lord Eldon, J. Scott, *Lord Eldon’s anecdote book*, ed. A. L. J. Lincoln and R. L. McEwen (London, 1960), 44; see, e.g., the *Cumberland Pacquet*, 2 September 1783, which contains one of the few references to Scott. In an undated letter written in January 1779 William thus confided to Henry Scott: ‘Business is very dull with poor Jack, very dull indeed; and of consequence he is not very lively. I heartily wish that business may brisken a little, or he will be heartily sick of his profession. I do all I can to keep up his spirits, but he is very gloomy.’ Twiss, *The public and private life*, I:113.

¹¹ These and all subsequent figures for Scott’s earnings are compiled from his fee books, in the collection of Scott papers held by the Middle Temple Library, cited by kind permission of the Masters of the Bench of the Honourable Society of the Middle Temple.

Table 1.1. *John Scott's Northern Circuit fees, 1785–1788*

Year	Spring	Summer	Total
1785	£148.01.00	£271.19.00	£420.00.00
1786	£181.13.00	£322.07.00	£504.00.00
1787	£152.05.00	£369.12.00 ^a	£521.17.00
1788	£187.19.00	£372.05.00 ^b	£560.04.00

^a Newcastle £60.18.00; Carlisle £103.19.00; Appleby £11.11.00; Lancaster £193.04.00.

^b Newcastle £59.07.00; Carlisle £114.09.00; Appleby £31.10.00; Lancaster £166.19.00.

by-election.¹² Nor was this petition Scott's sole experience as a parliamentary advocate. When Bowes was returned for Newcastle in 1780, Scott helped to defeat the petition filed against him. Friendship with Lloyd Kenyon gained Scott briefs in the Clitheroe election petition in March 1781, and in support of the Duke of Northumberland's claim to the office of Lord Great Chamberlain, argued before the House of Lords in May of that year. Together with Arthur Pigott, Scott represented Peter Perring, a member of the council at Fort St George, when he became the subject of parliamentary investigation in the summer of 1782. Perring and Sir Thomas Rumbold, the former governor of Madras, were accused of corruption and with having brought about the Mahratta war in 1780. The Commons proceeded against the pair by means of legislation. In the event, however, no evidence was taken against Perring, and he was dropped from the Bill in early 1783.¹³

In 1788 Scott, by then a leading member of the Chancery bar, asserted that 'practice began by some fortunate chance and then went on'.¹⁴ Indeed his own London practice is said to have sprung from his successful efforts in *Ackroyd v. Smithson* in March 1780, a case concerning the devolution of property where circumstances

¹² T. R. Knox, "'Bowes and liberty': the Newcastle by-election of 1777", *Durham University Journal* 77(2) (1985), 149–64, 149.

¹³ See J. Phillips, 'Parliament and southern India, 1781–3: the secret committee of inquiry and the prosecution of Sir Thomas Rumbold', *Parliamentary History* 7(1) (1988), 81–98.

¹⁴ I. S. Lustig and F. A. Pottle (ed.), *Boswell: the English experiment 1785–1789* (London, 1986), 219.

Table 1.2. *John Scott's annual fees, London practice, 1785–1799*

Year	Amount
1785	£5486.05.00
1786	£6147.14.00
1787	£6957.10.00
1788	£7472.10.00
1789	£9433.05.00
1790	£9084.15.00
1791	£9605.13.06
1792	£8823.09.00
1793	£6890.07.04
1794	£8138.08.00
1795	£6985.00.00
1796	£7031.16.08
1797	£6739.00.10
1798	£6373.07.00
1799 ^a	£2287.00.05

^a January to April fees only.

had frustrated the wishes of the testator.¹⁵ Scott argued the case on appeal, and convinced Lord Chancellor Thurlow to reverse the decision of the trial judge and to alter his own first impression of the matter. A commentator has noted: ‘This most able argument confirmed the increasing reputation of Mr Scott, which quickly led him, under the well-merited high estimation of Lord Thurlow and his contemporaries, through successive honours.’¹⁶ The first of these occurred on 4 June 1783, when Scott received a patent of precedence, a rank equivalent to that of King’s Counsel.¹⁷ Thereafter his London practice continued to expand, as his fee books indicate (the diminution of fees from 1793 probably reflects the pressure of his workload as a law officer). His annual fees are set out in Table 1.2.

Shortly after he gained his patent of precedence Scott entered

¹⁵ 1 *Brown’s Chancery Reports* 503–15, 28 *English Reports* 1262–9.

¹⁶ 1 *Brown’s Chancery Reports* 514, 28 *English Reports* 1269.

¹⁷ A patent of precedence could be regarded as more desirable. A King’s Counsel could not appear against the Crown without a licence to do so, and as the office of King’s Counsel was paid, appointment vacated a seat in Parliament. A patent of precedence conferred equivalent rank without these disabilities. W. S. Holdsworth, *A history of English law*, 17 vols. (London, 1903–72), VI:476.

Table 1.3. *Chancellor's fees, County Palatine of Durham, 1787–1799*

Year	Spring	Summer	Total
1787 ^a	–	£121.00.00	£121.00.00
1788	£117.00.00	£130.00.00	£247.00.00
1789 ^a	£126.05.00	–	£126.05.00
1790	£138.00.00	£112.00.00	£250.00.00
1791	£117.00.00	£137.00.00	£254.00.00
1792	£142.00.00	£115.00.00	£257.00.00
1793	£120.00.00	£130.00.00	£250.00.00
1794 ^a	£139.00.00	–	£139.00.00
1795	£160.00.00	£126.00.00	£286.00.00
1796	£140.00.00	£114.00.00	£254.00.00
1797 ^a	£132.00.00	–	£132.00.00
1798 ^a	–	£156.00.00	£156.00.00
1799 ^a	£90.00.00	–	£90.00.00

^a Indicates a single sitting.

Parliament, thanks to the good offices of the Lord Chancellor, and in March 1787 Thurlow's brother, the bishop of Durham, named Scott chancellor for the county palatine. Scott held that post for twelve years, resigning in July 1799. He generally visited Durham twice a year, usually in April and August. His main purpose was to hold sittings of his court, which operated for the county as the High Court of Chancery operated for the nation. In addition to his sittings he undertook administrative duties, including witnessing documents, especially patents of appointment, signing warrants issued *per curiam* during the assizes, and authorising commissions to take affidavits for cases in his own court.¹⁸ The fees of approximately £125 for each sitting of his court constituted Scott's remuneration for his efforts. The fees are set out in Table 1.3.

Scott was a back-bench member of Parliament for five years before being appointed Solicitor General and knighted in June 1788.¹⁹ In February 1793 he was appointed Attorney General, an office which he held until July 1799, when he resigned to

¹⁸ PRO, DURH.3 (131), (132); DURH.3 (198). Scott also acted as a general legal adviser to the bishop. For his correspondence with Thurlow's successor, Shute Barington, see Northumberland Record Office, 384/16–23.

¹⁹ During his first thirteen years in Parliament, Scott represented Weobley in Herefordshire. In May 1796 he was returned for Boroughbridge, Yorkshire, and continued to represent that constituency until July 1799. See chapter 2.

Table 1.4. *Attorney General's annual fees, 1793–1799*

Year	Amount
1793	£2847.04.00
1794	£3314.12.00
1795	£3878.16.05
1796	£4854.19.00
1797	£3990.04.08
1798	£4028.10.00
1799 ^a	£1394.10.07

^a Earnings for January–April only.

become Chief Justice of the court of Common Pleas. At the same time he was elevated to the peerage as Baron Eldon. His tenure in the Common Pleas was brief, for in April 1801 he became Lord Chancellor in the government formed upon the resignation of William Pitt. He remained in office when Pitt returned in 1804, but resigned upon Pitt's death in January 1806. He resumed the Great Seal in 1807. This second Chancellorship lasted twenty years, and spanned the governments of the Duke of Portland, Spencer Perceval, and the Earl of Liverpool. In 1821 George IV conferred upon his 'dear friend' the titles of Earl of Eldon and Viscount Encombe, the latter referring to an estate in Dorset purchased in 1807. The cabinet split occasioned by the advancement of George Canning also brought about the Chancellor's resignation in the spring of 1827. Thereafter he remained a semi-active member of the House of Lords almost to the time of his death, on 13 January 1838. Out of office, he was particularly inspired by the great issues of religious and electoral reform.

Throughout this public phase of his professional career Scott's income continued to grow. His fee books record the fees he collected for his work as Attorney General, and are shown in Table 1.4. These, together with his various private fees from the same period, comprise his total earnings through the spring of 1799. Table 1.5 shows his total earnings.

Even taking into account the likely diminution of his private practice after he became a law officer in 1788, Scott's earnings compare favourably with those of some of the leading barristers of

Table 1.5. *John Scott's total annual earnings, 1793–1799*

Year	Amount
1793	£9987.11.04
1794	£11592.00.00
1795	£11151.16.05
1796	£12140.15.08
1797	£10261.05.06
1798	£10557.17.00
1799 ^a	£3771.11.00

^a Earnings for January–April only.

the period.²⁰ In taking up the judicial post in the Common Pleas, he did suffer a substantial loss in income, as an annual salary of £3,500, together with patronage worth approximately £1,100, certainly did not compensate for the loss of fees.²¹ His tenure as Lord Chancellor was far more lucrative. In addition to an annual salary of £5,000, he received fees and perquisites that probably placed his annual income at £15–20,000.²² To provide some context for these figures, Massie estimated in 1759 that seventy families earned annual incomes of £8,000 or greater. Colquhoun's income table, based on the census returns of 1801 and the pauper returns of 1803, is topped by the 287 families comprising the temporal peerage, whose average income was £8,000. In contrast, persons engaged in the law, including judges, barristers, solicitors, clerks, and others, on average earned annual incomes of £100 in 1759 and £350 in 1800.²³

This impressive record of professional achievement owed a great deal to Scott's undoubted mental capacity. Whatever the

²⁰ D. Duman, *The judicial bench in England 1727–1785: the reshaping of a professional elite* (London, 1982), 106.

²¹ *Ibid.*, 114, 120.

²² Scott's patent, dated 18 April 1801, describes the various fees and grants to which he was entitled as Lord Chancellor and Speaker of the House of Lords. Encombe (Scott papers). For a discussion of Scott's fee income as Lord Chancellor, see chapter 16. In addition to his salary and emoluments, the Lord Chancellor controlled a vast legal and ecclesiastical patronage. On the latter, see chapter 11.

²³ R. Porter, *English society in the eighteenth century* (London, 1982), 386, 388. At his death Eldon left an estate sworn at less than £700,000, which included his properties in Dorset and Durham. *The Legal Observer* 15 (1838), 311.

caveats regarding procrastination which dogged his work in later life, contemporaries consistently praised the intellectual ability he brought first to the bar and then to the bench. Of Sir John Scott, the law officer and barrister, it was said:

He branches forth his arguments into different heads and divisions; and pursues the respective parts through all their various ramifications, with such methodical accuracy, that arguments rise out of argument, and conclusion from conclusion, in the most regular and natural progression; so that those who are not acquainted with his practice, would suspect he had studied and prepared his speeches with the most diligent attention; while others, who are better acquainted with the business of the courts, feel their admiration and surprise increased, from the knowledge that a man of his extensive business, so far from studying what he shall say, can scarce find time to glance his eye over the numerous papers that come before him.²⁴

This ability also enabled him to respond forcefully to an opposing position. 'His systematic mind seems to methodize with inconceivable rapidity, the arguments of his opponents. In the short space of time between the pleadings of his adversary, and his reply, every thing seems digested and disposed, and his mode of replication seems planned in the nicest order.'²⁵ Lord Abinger recalled that, as Chief Justice of Common Pleas, Scott 'investigated every case to the bottom, considered every argument advanced by counsel, and every other topic besides, that the cause suggested'.²⁶ James Boswell and Sir Samuel Romilly offered similar assessments of Scott as Lord Chancellor. Boswell was reported as describing him as 'superior in legal knowledge to any other person in the Court of Chancery, & the greatest Lawyer that has sat in that Court since Lord Hardwicke presided in it'.²⁷ Romilly, a severe critic, acknowledged that 'in point of learning in every part of the profession, and in talents, he [Scott] had hardly been surpassed by any of his predecessors'.²⁸

Scott's intellectual abilities did not extend naturally either to a love of or a marked proficiency in public oratory. His forensic skills at the bar were described as being 'of that subtle, correct,

²⁴ E. Wynne, *Strictures on the lives and characters of the most eminent lawyers of the present day* (Dublin, 1790), 203–4.

²⁵ *Ibid.*, 204–5.

²⁶ P. C. Scarlett, *A memoir of the right honourable James, first Lord Abinger* (London, 1877), 89.

²⁷ J. Farington, *The Farington diary*, ed. James Greig, 8 vols. (London, 1924), VIII:239.

²⁸ Sir S. Romilly, *Memoirs of Sir Samuel Romilly*, 3 vols. (London, 1840), II:369.

and deliberate kind, that has more the appearance of written than of oral eloquence'.²⁹ Far from evidencing a natural affinity for oral argument, Scott's shyness in this regard had the effect that, in the first few years following his call, 'he shunned, as much as possible, appearing even at the Chancery bar as a pleader' but rather confined himself to drafting documents.³⁰ His 'crimson timidity was so confirmed, that he seemed even to shun the brilliant allurements of profit, when it could only be acquired through the medium of public pleading', and he only overcame his lack of 'impudence' through an act of will.³¹ Lord Abinger's assessment of the mature speaker was similarly temperate. 'As a speaker he was elaborate and ingenious, and possessed a turn for grave humour that sometimes relieved his tedious discourses.'³² The early tendency to nerves, moreover, remained. On the occasion of his taking his seat as an earl, the attention paid him by fellow peers made Scott 'nervous and somewhat agitated'.³³ He admitted before a speech to the annual goldsmiths' dinner in 1822: 'I am always a little nervous before I make this sort of address, and . . . though I could talk before a parliament with as much indifference as if they were all cabbage plants, a new audience has ever borne an appalling appearance.'³⁴

The generally sensitive nature of Scott's temperament was manifest in other, sometimes contradictory ways. He was possessed both of a light-hearted, teasing nature, and a tendency to gloomy, self-indulgent introspection. On the one hand, he enjoyed making light of his troubles, and on those occasions when he suffered illness or infirmity, he tended to explain them away with a self-deprecating joke. Having mentioned attacks of 'giddiness and swimming in my head' to his brother Henry, Scott went on to describe himself as carrying on with 'what little business I can do with blisters on the outside of me and enormous quantities of medicine in the inside'.³⁵ On another occasion he suffered marked

²⁹ Wynne, *Strictures*, 203. ³⁰ *Ibid.*, 201.

³¹ J. Williams, *Satires and biography* (London, 1795), 62.

³² Scarlett, *A memoir*, 89.

³³ Eldon to Lady Frances Bankes, 10 July 1821, Twiss, *The public and private life*, II:426.

³⁴ Eldon to Bankes, 27 April 1822, *ibid.*, 448.

³⁵ J. Scott to H. Scott, 2 February 1781, Surtees, *A Sketch*, 78. Attacks of giddiness, accompanied by dimness of vision, continued to plague Scott in later life. See, e.g., Eldon to Richard Richards, 3 September 1817, AMA Caerynwyh

shortness of breath, but upon his restoration of health opined to his brother William: 'I hope, with care, to be yet able to make long speeches, if not good ones, a faculty which I was in danger of losing.'³⁶ Recovering from a fall from a horse, Scott expected 'to be well enough in a very few days, to be able if a fit and decorous opportunity offered, to trip it on the light fantastic tac'.³⁷ The gout provided frequent opportunities for rueful humour. As early as 1790 he lamented to Henry:

How hard it is upon me that I, the youngest, and most temperate and abstemious of the three, should, the first of all the brothers, arrive to this dignity! I hope most heartily you may escape; because, between the pain felt and the pain of being laughed at, the complaint is quite intolerable.³⁸

After more than twenty years of the affliction, the sufferer could still write as a postscript to a friend: 'I had almost forgot your lameness and to mention my gout. My foot presents its compliments to your leg, and borrowing the idea from a celebrated author, hopes you improve there when I do in understanding.'³⁹ On the other hand, he readily admitted to gloom and lowness of spirits, often vividly expressed. The press of work and its attendant responsibilities could make him 'deplorably hysterical'.⁴⁰ During his years as Lord Chancellor, the combination of physical exhaustion and suspicion could prove particularly debilitating. He frequently considered himself undervalued by his political allies, and misrepresented by his political opponents. When corresponding with old friends, Scott could become not merely nostalgic, but extremely morose. Writing to boyhood friend Samuel Swire more than twenty years before retiring from public office, he expressed the hope that:

I may yet spend some happy day under your roof, secluded for awhile from a selfish, ambitious, interested, luxurious world, that hath not an

(Richards) papers, Z/DA/64 SA21; Eldon to Stowell, undated [c. September 1823], Twiss, *The public and private life*, II:484; Eldon to Robert Peel, 7 September 1823, BL (Peel papers), Add. MS 40315 f. 91.

³⁶ J. Scott to W. Scott, undated, Encombe (Scott papers).

³⁷ Eldon to Miss Mary Farrer, undated, *ibid*.

³⁸ J. Scott to H. Scott, undated [c. December 1790], Twiss, *The public and private life*, I:205.

³⁹ Eldon to William Bond, undated [c. 1827], DorRO (Bond of Tyneham papers), D. 1141:1/14.

⁴⁰ Eldon to Lord Redesdale, 9 June 1804, GRO (Mitford papers), D2002/1/23. See also Eldon to Redesdale, undated [early 1806], *ibid*.

idea of the comforts of a college commons, or the repast of a parsonage dinner, when the landlord and his host meet, with the same ideas upon all things, unaffected by the changes and chances of life, which governed them both in the same staircase in college.⁴¹

To long-time friend and colleague John Mitford he confessed that a letter describing his 'miseries' was interrupted by tears.⁴² Indeed, Scott's public display of emotion in Parliament and in the courtroom became a topic for hostile political cartoons.⁴³ The poet Shelley made it the focus of his portrait of the Chancellor in *The Mask of Anarchy*:

Next came Fraud, and he had on,
Like Eldon, an ermined gown;
His big tears, for he wept well,
Turned to mill-stones as they fell.

In the same way, Scott's relations with others were characterised both by a genial manner and strict standards of conduct. His early correspondence with his cousin Reay, for example, is marked by jokes, puns, and small witticisms. In September 1771 he gave the following account of a visit to Cambridge.

Flow on! my beloved Isis, I will not pollute thy crystal wave, by drawing a comparison between it & the muddy, stagnate waters of thy sister Cam. Lift up your heads ye obnoxious piles! & shame those things called buildings at Cambridge! . . . The public buildings, their senate & library are shabby beyond his conception, who has seen a Theatre, a Bodleian, Radclivian, Christchurch, or All Souls Library . . . Trinity College it is true is a noble one, yet tho the quadrangle is certainly larger than that at Christchurch, if you compare their libraries & halls, Oxford outshines them even here. The celebrated King's College Chapel is a gothic structure, stupendous & magnificent as to the stone work, perhaps so beyond all description. Yet this venerable edifice . . . is fitted up with stalls so exceedingly shabby, that it has more the appearance of a stable than a place of worship. In short, may I be a stewed prune if ever I march thro' Cambridge again. I should not forget to tell you, that their various coloured gowns are infinitely less pleasing than our black ones. I did not see a single academic who looked like a gentleman.⁴⁴

⁴¹ Eldon to Samuel Swire, 10 July 1805, Twiss, *The public and private life*, 1:495–6.

⁴² Eldon to Redesdale, 9 June 1804, GRO (Mitford papers), D2002/1/23.

⁴³ See, e.g., the depiction of Scott in William Hone's pamphlet, 'The political showman – at home!' in *Radical squibs and loyal ripostes*, ed. E. Rickword (Bath, 1971), 276.

⁴⁴ J. Scott to Reay, 2 September 1771, Encombe (Scott Papers). Scott prefaced his commentary with the observation: 'with all my Oxford prejudices about me, you

While his mature epistolary style lost some of this exuberance, his private letters retained a gentle humour. Describing to his brother-in-law the King's review of various volunteer corps, Scott wrote,

As a non-effective in an awkward squadron, I had the modesty not to show myself in arms, though I have military character enough to attend the drill occasionally in a more private scene. Your friend Major Sir W. Scott's corps, not having been bold enough to attempt the strong measure of firing, were also absent.⁴⁵

A letter to his daughter describing the marriage of Princess Mary concluded, 'Even the tears trickled down *my* cheeks; and, as to Mamma, she cried all night, and nine-tenths parts of the next day, so that, do you see, your wedding is a mighty merry affair.'⁴⁶

With ladies, whether old or young, Scott indulged in the language of light-hearted flirtation, increasingly when his own years took away any hint of improper gallantry. Recalling a meeting with two young cousins, he wrote to one of them: 'I hope you have all been well, since I had the sweet little conversation with you on the King's highway. I think his Majesty would have given me his gracious pardon, if I had robbed Mrs Farrer of both of you.'⁴⁷ Shortly before the marriage of his son to Miss Henrietta Ridley, he wrote to Lady Ridley:

A thousand thanks to you for your postscript which brings me *Miss R's best love*: were I again but just arrived at the years of discretion . . . I am tempted to think that I might use her so ill as to tell her that, if she pleased, we would struggle together through five-and-twenty such years as I have gone through: – which assure her, I would not do to attain any earthly object, short of the comfort of convincing a person, whom I much

will not perhaps give my remarks all that credit which might be claimed by an uninterested observer.' See also Scott's letters to Reay written in the summer and autumn of 1771, Encombe (Scott papers), and in late 1772 and spring 1773, NCL (Scott papers).

⁴⁵ J. Scott to Matthew Surtees, 6 June 1799, Encombe (Scott papers).

⁴⁶ Eldon to Miss Frances Jane Scott, 25 July 1816, Twiss, *The public and private life*, II:284.

⁴⁷ Eldon to Miss Frances Farrer, undated [c. 1804], Encombe (Scott papers). See also Eldon's undated letter to Mary Farrer, in which he claimed the privilege of addressing her as 'dear'. '[I]t is a privilege, which we, who sustain grave characters, have to be allowed to express ourselves to young ladies, in the language which our affections dictate, without being supposed to trespass beyond the bounds of propriety.' Encombe (Scott papers).

loved, that, if I prevailed upon her to act very foolishly for my sake, there was nothing which I would not endure for hers.⁴⁸

He once composed a poem on the occasion of observing a friend's daughters playing on a swing and noting their display of ankle.

In days of yore, as Roman poets tell,
One Venus lov'd in myrtle groves to dwell:
 In modern days no less than *four* agree
 To consecrate to fame our oaken tree –
 Blest Tree! The monarch shelter'd by thy arms!
 The goddess from thy boughs displays her charms.⁴⁹

As an old man he ruefully described a dinner party to his daughter: 'My seat was between Lady L[ondonderry] and the marchioness of Hertford. There was a great demand upon me for small talk, but I don't think I flirted with my usual success.'⁵⁰ Nor was Scott's 'small talk' reserved solely for the amusement of ladies. He was a great teller of jokes and droll stories, particularly detailing incidents from his professional life. With these he might enliven a dinner party or a less convivial occasion. Charles Greville recalled 'the many tedious hours the Prince Regent kept the Lords of the Council waiting at Carlton House, that the Chancellor used to beguile the time with amusing stories ... which he told extremely well'.⁵¹ In later life Scott made a compilation of these stories for the amusement of his grandson entitled, *Lord Eldon's Anecdote book*. More than one contemporary remarked upon Scott's kindness upon the bench. In an era when Chancellors like Thurlow were remarkable for their gruff, surly manners, the bar regarded Scott with considerable affection.⁵²

Despite this playful, flirtatious, courteous side, however, Scott had a strong sense of propriety, as well as precise notions of entitlement. Taken together, these demanded that he refrain from

⁴⁸ Eldon to Lady Ridley, undated [c. summer 1804], Twiss, *The public and private life*, I:465.

⁴⁹ Surtees, *A Sketch*, 172.

⁵⁰ Eldon to Bankes, undated [c. spring 1825], Twiss, *The public and private life*, II:547.

⁵¹ P. W. Wilson (ed.), *The Greville diary*, 2 vols. (London, 1927), I:182.

⁵² See, e.g., the observations in *ibid.*, I:183; Scarlett, *A memoir*, 90; Romilly, *Memoirs*, II:369, and H. Brougham, Baron Brougham and Vaux, *Sketches of statesmen of the time of George III*, 3 vols. (London, 1855), I:186. For Eldon's delight in punning while on the bench, see J. Grant, *The bench and the bar*, 2 vols. (London, 1837), II:294–9.

thrusting, or giving the appearance of thrusting, himself forward, but once advanced to stand firm upon all rights and privileges associated therewith. Early in his career he declined to accept the offered patent of precedence until his seniority over Thomas Erskine and Pigott was recognised. Both Scott's juniors at the bar, they actually had received their patents prior to his decision to accept. Called before the Lords Commissioners of the Great Seal, Scott maintained: 'what I had understood to have been handsomely, and voluntarily, and without request offered, should either be handsomely conferred, or should not be accepted.'⁵³ The validity of his claim was acknowledged, albeit grudgingly, and after 'some noise' Scott received a patent that maintained his proper seniority. In 1809 his name was put forward as a candidate for the Chancellorship of the University of Oxford in opposition to Lord Grenville. Following confusion between the government and the Court, the Duke of Beaufort was also proposed, but Eldon declined to withdraw. Acknowledging that the presence of both himself and Beaufort would perhaps fatally divide their supporters, Eldon maintained that, having agreed to stand, he could not give way to a later entrant.⁵⁴ In the same way, when he was created an earl, he felt obliged to submit to the College of Heralds the question whether his grandson, as heir presumptive, was entitled to a courtesy title. He took this step despite the fact that he does not seem to have delighted much in the affirmative answer he received.⁵⁵

Scott's attitude toward rank was ambivalent. There is little doubt that he took a certain delight in his elevation to the peerage in 1799, evident in the expressions of gratitude to family and friends and in the conferences with his brother upon a suitable motto and title. Moreover, once his protests against an earldom were overcome, his pleasure crept out. To his daughter he confided: 'I must say, notwithstanding he would not let me off, the King was very gracious. He seals *my* patent first, with some special recital in it, which I have not yet seen.'⁵⁶ Despite his far from disdainful response to ennoblement, however, he scorned the

⁵³ Eldon, *Anecdote book*, 5.

⁵⁴ Lord Grenville was duly elected. See chapter 12.

⁵⁵ Eldon was concerned that receipt of a title might cause his grandson, then aged 16, to cherish an unduly exalted opinion of himself. See chapter 8.

⁵⁶ Eldon to Bankes, 7 July 1821, Twiss, *The public and private life*, II:421.

practice of merely cutting a figure in consequence. Professing a preference for titles progressively acquired over several generations rather than a series of dignities descending upon family members 'without efforts on their part to obtain them', he argued that:

if a Peer does not do credit to his titles, his titles will confer no credit upon him . . . if it is a blessing to receive distinctions, which furnish the opportunities and means of doing public good, he is altogether inexcusable, who, possessing those distinctions, disgraces them and himself by neglecting to promote the interests of the public, by availing himself of such means and such opportunities . . . [I]f rank engenders pride, if it produces haughtiness in conduct to those with whom we have associated and do associate, if it considers well-regulated condescension and kindness of manners as what needs not anxiously to be attended to, it becomes inexpressibly odious.⁵⁷

While the above could be explained as the cautious advice of a grandfather, it does not differ significantly from the sentiments he had expressed as a younger man. When discussing the purchase of an estate with his cousin Reay, Scott scorned the idea of purchasing beyond one's means merely to acquire the status of a landowner.

Now as to you, my dear Sir, what is the object you propose to yourself by buying, which appears to you so valuable, as to induce you . . . to take the chance in case of accident to you, of throwing all these works of time and labour upon your boy? Is it the merely having the estate? That can hardly be – what object then have you in taking upon you the character of a debtor for £40,000 in order that you may say you are the owner of this estate?⁵⁸

He likewise declined to promote his son as MP for the county of Northumberland rather than 'a poor little beggarly township', when this was suggested to him. Pointing out that 'a man ought to have a certainly continuous income, very large indeed, who can have a son, in his lifetime, living as the member of a county', he concluded that 'I could do nothing so unjust' to his son 'as as to involve him in a program of certain, heavy expenditure to promote a very uncertain undertaking'.⁵⁹

⁵⁷ Eldon to J. Scott, 4 October 1821, *ibid.*, 438.

⁵⁸ J. Scott to H. Reay, 2 January 1799, NCL (Scott Papers). Scott had acted with a comparable prudence in 1792 when he acquired Eldon, his estate in southern Durham, for £20,000. He paid the full amount at the time of purchase and so could immediately devote all his rents to improving the property. E. Foss, *Judges of England*, 9 vols. (London, 1864), IX:43.

⁵⁹ J. Scott to W. Scott, undated [c. September 1801] Encombe (Scott papers).

In the proper regulation of his conduct, Scott was guided by what he habitually described as his 'duty'. The source of this obligation to duty was Scott's Christian faith. Throughout his life his attitude toward the practice of organised religion was ambiguous. His identification with the struggle to maintain the political privileges of the Anglican Church, and the well-known tag that he was less a pillar than a buttress of the Church because he habitually supported it from the outside, suggests a less than enlightened spirituality. The reality was probably not so simple.⁶⁰ His own creed, if such a term can properly be applied to a loose pattern of belief and conduct, seems to have been based on the public expression of Christian obligation. All fortune was the consequence of Divine Providence. Where Providence ordained good fortune, therefore, such as the receipt of high office, the recipient ought to acknowledge it gratefully and undertake to perform any tasks attendant thereto as part of a sacred trust. On being raised to the peerage and appointed Chief Justice of Common Pleas, Scott wrote to his mother: 'I feel that under the blessing of Providence I owe this . . . I hope God's grace will enable me to do my duty in the station to which I am called.'⁶¹ When he became Lord Chancellor two years later he professed himself prepared 'for a conscientious and most anxious discharge of my duty', and ready to scorn any office 'not attained by such means as are consistent with the principles of honour, morality, and religion'.⁶² Likewise, in the event of bad fortune, God's judgment must be endured. In a letter consoling his brother Henry on the death of his sister-in-law, Scott wrote: 'the event must be submitted to the providence of HIM who knows best what is expedient for us.'⁶³ He struggled to exhibit a similar

⁶⁰ Twiss, *The public and private life*, III:489. For a discussion of Eldon's attitude toward Catholic Emancipation and repeal of the Test and Corporation Acts, see chapter 17.

⁶¹ J. Scott to Mrs W. Scott, 19 July 1799, Encombe (Scott papers). Commenting upon the frustration of the Cato Street conspiracy, which aimed at the assassination of the members of the Cabinet, Eldon wrote: 'as to the future, I trust . . . that we may all fully depend upon that Providence to which we are so largely indebted.' Eldon to Mrs Farrer, undated (February 1820), Twiss, *The public and private life*, II:362.

⁶² Eldon to Swire, 15 April 1801, Twiss, *The public and private life*, I:371.

⁶³ J. Scott to H. Scott, 22 December 1791, *ibid.*, 211. See also Eldon to the Revd Henry John Ridley (on the occasion of the death of Ridley's father), 15 October 1825, *ibid.*, pp. 560-1.

fortitude on the death of his own son. To his cousin Reay he affirmed:

I am plunged in despair and affliction, which I know not how to bear. But I must not open my mouth – God has done it, and his will be done. I can await his command for my own departure without uneasiness, as far as respects myself – but I had vainly hoped that he, that is gone, might have protected those I might leave behind me. Heaven has told me I ought to have looked elsewhere for their protection.⁶⁴

After the first, bitter grief had faded, he attempted to find something of value in the loss he had suffered. Reflecting that he was then entering upon the twilight of life in which one's thoughts turned naturally to eternity, he asked: 'May it not be a blessing, that, at the beginning that period which I am to employ better, I am awakened to a sense of duty, by a judgment as awful as that which, in my loss, has been poured out upon me?'⁶⁵ Apart from such moments of extreme unhappiness, however, Scott believed that: 'A truly religious temper is a cheerful temper.'⁶⁶ Moreover, the servant of God ought to be executing his duties among his fellow men. 'We can never be justified in supposing that we are doing our duty to God, whilst we are neglecting, or incapacitating ourselves for, the discharge of our duties to our neighbours in this life.'⁶⁷ He disliked the gloomy introspection that he associated with Evangelicalism, and was quick to distance himself from anything that might be so described. While mentioning to his grandson the spiritual advantages to be gained by attending his college chapel, he hastened to add: 'don't suppose that I recommend or approve that morose, canting, fanatical temper.'⁶⁸ In the same way he concluded a letter setting forth his views on Unitarianism with the caveat: 'Though I write in this style, and have been very unwell . . . and however grave you may think me, don't think me "a Saint": I mean a "modern Saint". The more I see of that character, the less I like it.'⁶⁹ For Scott the demand of the spiritual life rested not so much in inquiry, as in performance. Secure not only in his belief in Anglican doctrine, but in his belief that further analysis of that doctrine would not resolve its apparent

⁶⁴ Eldon to H. Reay, 12 January 1806, NCL (Scott papers).

⁶⁵ Eldon to Swire, undated [received 31 May 1806], Twiss, *The public and private life*, 11:4–5.

⁶⁶ Eldon to Encombe, undated [received 11 May 1824], *ibid.*, 516.

⁶⁷ *Ibid.* ⁶⁸ *Ibid.* ⁶⁹ Eldon to Swire, 7 August 1808, *ibid.*, 64.

ambiguities, he did not feel the need to question or criticise his core beliefs. Rather, his duty lay in defending and submitting to what had been ordained, whatever the circumstances. This outlook conferred upon him a degree of moral confidence that transcended merely spiritual matters, and informed his public career.